



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,009	06/28/2005	Remy Schmidt	METPAT P78AUS	9062
20210 7590 05/19/2008 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301				
EXAMINER				
COOLEY, CHARLES E				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
05/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/541,009

**Applicant(s)**

SCHMIDT, REMY

**Examiner**

Charles E. Cooley

**Art Unit**

1797

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 20050628
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **NON-FINAL OFFICE ACTION**

1. **This application has been reassigned to Technology Center 1700, Art Unit 1797 and the following will apply for this application:**

Please direct all written correspondence with the correct application serial number for this application to **Art Unit 1797**.

Telephone inquiries regarding this application should be directed to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197 or to the Examiner at (571) 272-1139. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

### ***Priority***

2. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All of the CERTIFIED copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

### ***Information Disclosure Statement***

3. Note the attached PTO-1449 form submitted with the Information Disclosure Statement filed 28 JUN 2005.

### ***Drawings***

4. Figure 18 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Art Unit: 1797

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claims 39 and 40 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

#### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

#### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

#### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the

provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

***Specification***

6. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
7. The abstract is acceptable.
8. The amended title is acceptable.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 21, 22, 26, 34, 35, 37, and 38 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by EP 1208905 A2.**

EP 1208905 A2 discloses the recited container 3 and solid baffles 7 as seen in Figures 1 and 4. The glass lining is taught at ¶[0025].

**11. Claims 21, 22, 26, 34, 35, 37, and 38 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by EP 1172138 A1.**

EP 1172138 A1 discloses the recited glass-lined container 1 and hollow baffles 5 as seen in Figures 1-3.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**13. Claims 25, 28, 29, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over (EP 1208905 A2 or EP 1172138 A1) in view of any one of (DE 19723977 A1, Nocera (US 3,265,368), or Kropp et al. (US 3,334,870)).**

EP 1208905 A2 or EP 1172138 A1 do not disclose the recited shapes of the baffles. DE 19723977 A1 discloses a baffle with a local connection at a vertical middle of the baffle (Fig. 1). Nocera (US 3,265,368) discloses a baffle that is curved at a higher and lower portion thereof or hockey stick shaped (a linear and angled portion) – Fig. 1. Kropp et al. (US 3,334,870) discloses a baffle that has convex sides (Fig. 4) and a baffle with an undulating surface (Fig. 5) or hockey stick shaped (a linear and angled portion – Fig. 1). It would have been obvious and mere common sense to one having ordinary skill in the art, at the time applicant's invention was made, to have altered the position of

the local connection and/or the shape of the baffles in EP 1208905 A2 or EP 1172138 A1 as disclosed by DE 19723977 A1, Nocera, or Kropp et al. for the purpose of altering the flow pattern of the materials being processed in the container.

**14. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1208905 A2 in view of MacLean (US 2,159,856).**

EP 1208905 A2 does not disclose the recited configuration of the baffle. MacLean discloses a baffle wherein an end of a body of the baffle is close to the adjacent internal wall and in that its opposite end is further away from the adjacent internal wall as seen in Figures 1, 2, and 5. It would have been obvious and mere common sense to one having ordinary skill in the art, at the time applicant's invention was made, to have altered the configuration of the baffles in EP 1208905 A2 as disclosed by MacLean for the purpose of opposing swirling flow of the material in the container and to direct the material toward the axial zone of the container (Page 2, col. 1, lines 24-32).

**15. Claims 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over (EP 1208905 A2 or EP 1172138 A1) in view of any one of (Cowley (US 4,276,262) or Baker et al. (US 5,632,962)).**

EP 1208905 A2 or EP 1172138 A1 do not disclose the recited helical shape of the baffles. Cowley in Fig. 1 and Baker et al. in Fig. 12 each disclose a helical baffle within a container. It would have been obvious and mere common sense to one having

Art Unit: 1797

ordinary skill in the art, at the time applicant's invention was made, to have altered the shape of the baffles in EP 1208905 A2 or EP 1172138 A1 to be helical in form as disclosed by Cowley or Baker et al. for the purpose of imparting a swirling or helical flow to the material in the container.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art discloses baffles of various geometries within containers.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley in Art Unit 1797 whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri.. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles E. Cooley/

Charles E. Cooley  
Primary Examiner  
Art Unit 1797

16 May 2008